

Message Text

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E.O. 11652: N/A
TAGS: SHUM, TW, US
SUBJECT: HUMAN RIGHTS REPORTING TO CONGRESS

REF: TAIPEI 1362

1. FOLLOWING WRITTEN COMMENTS ON THE REPORT ON HUMAN RIGHTS IN THE ROC WERE HANDED TO EMBASSY POLCOUNS BY MOFA NORTH AMERICAN AFFAIRS DIRECTOR WANG ON APRIL 8. WANG SAID HE WAS NOT MAKING ANY JUDGEMENT ON THE REPORT BUT WAS OFFERING THESE OBSERVATIONS FOR THE SAKE OF ACCURACY FOR WHATEVER USE WE WISHED TO MAKE OF THEM. HE ASKED THAT THEY BE FORWARDED TO THE DEPARTMENT OF STATE.

BEGIN TEXT:

WITH REFERENCE TO THE REPORT PREPARED BY THE DEPARTMENT OF STATE FOR THE UNITED STATES CONGRESS CONCERNING THE CURRENT HUMAN RIGHTS SITUATION IN THE REPUBLIC OF CHINA, THE FOLLOWING COMMENTARIES ARE PRESENTED FOR THE SAKE OF ACCURACY AND CLARITY:

PART I. POLITICAL SITUATION:
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(1) ACCORDING TO THE CONSTITUTION OF THE REPUBLIC OF CHINA, THE GOVERNMENT ORGANS AUTHORIZED TO PROPOSE LAWS ARE, IN ADDITION TO THE EXECUTIVE YUAN MENTIONED IN THE REPORT, THE EXAMINATION YUAN, THE CONTROL YUAN AND INDIVIDUAL MEMBERS OF THE LEGISLATIVE YUAN. THE PRESIDENT DOES NOT PROPOSE LAWS FOR ENACTMENT BY THE LEGISLATIVE YUAN.

(2) THERE IS A SEPARATION OF TRIALS AND ADMINISTRATIVE FUNCTIONS IN THE JUDICIAL STRUCTURE OF THE REPUBLIC OF CHINA. THE TRIAL SYSTEM OF THE COURTS IS UNDER THE JUDICIAL YUAN WHILE THE MINISTRY OF JUSTICE OF THE EXECUTIVE YUAN IS IN CHARGE OF JUDICIAL ADMINISTRATION OTHER THAN TRIALS. ALL CIVIL AND CRIMINAL CASES BEFORE THE COURTS AT VARIOUS LEVELS ARE TRIED INDEPENDENTLY BY JUDGES FREE FROM ANY EXECUTIVE INTERFERENCE OR CONTROL.

(3) THE ALLEGATION OF "UNDER-REPRESENTATION IN THE LEGISLATIVE BODIES AND ELSEWHERE IN THE GOVERNMENT" IS UNJUSTIFIED. SINCE 1950 ALL COUNTY AND CITY COUNCILMEN AS WELL AS ALL CHIEF ADMINISTRATORS AT DIFFERENT LEVELS IN TAIWAN PROVINCE HAVE BEEN ELECTED IN ACCORDANCE WITH THE "OUTLINES GOVERNING THE IMPLEMENTATION OF LOCAL SELF-GOVERNMENT IN TAIWAN." THE FOLLOWING STATISTICS SHOW THE GENERAL PICTURE OF NATIVE PARTICIPATION IN ADMINISTRATIVE AND LEGISLATIVE BODIES:

1. ALL OF 2) MAYORS AND MAGISTRATES AS WELL AS THE GOVERNOR OF TAIWAN PROVINCE ARE NATIVES FROM TAIWAN;
2. OF 7023 CHIEF ADMINISTRATORS IN TOWNSHIPS, VILLAGES, DISTRICTS AND SUB-DISTRICTS, THE NATIVES ACCOUNT FOR 95 PERCENT;
3. OF 945 PROVINCIAL, COUNTY AND CITY COUNCILMEN, THE NATIVES ACCOUNT FOR 87 PERCENT; AND

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4. OF THE GOVERNMENT POSTS AT ALL LEVELS, THE NATIVES ACCOUNT FOR 64.61 PERCENT.

PART II. LEGAL SITUATION:

(1) ALTHOUGH A NUMBER OF EMERGENCY MEASURES HAVE BEEN ADOPTED IN ACCORDANCE WITH THE PROVISIONS OF THE MARTIAL LAW, THE GOVERNMENT HAS NOT SUSPENDED THE CONSTITUTION OR DISSOLVED THE LEGISLATIVE BODIES. NOR HAS THE GOVERNMENT SUSPENDED THE FUNDAMENTAL RIGHTS PROVIDED FOR IN THE CONSTITUTION. IN FACT, THE ONLY EFFECT OF THE MARTIAL LAW IS TO VEST JURISDICTION IN THE MILITARY COURTS OVER THE FOLLOWING OFFENSES:

1. SEDITION AND ESPIONAGE;
2. PURCHASE OR ACCEPTANCE OF STOLEN FIREARMS, AMMUNITION AND MILITARY FUEL;
3. CERTAIN CASES INVOLVING THEFT OR DESTRUCTION OF PUBLIC

COMMUNICATIONS FACILITIES AND MATERIALS.

(2) OTHER OFFENSES PERMISSIBLE FOR MILITARY TRIAL UNDER
ARTICLE 8 OF THE MARTIAL LAW ARE ORDINARILY TRIED BY THE COURTS.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

(1) TORTURE AND CRUEL TREATMENT ARE STRICTLY PROHIBITED BY
THE GOVERNMENT. THE GOVERNMENT, ON ITS OWN INITIATIVE, TAKES
BOTH ADMINISTRATIVE AND JUDICIAL ACTION AGAINST THOSE RESPON-
SIBLE WHEN IT IS FOUND THAT INVESTIGATIVE AGENCIES RESORT TO
TORTURE OR ANY MALTREATMENT AGAINST A SUSPECT. IN THE MURDER
CASE REFERRED TO IN THE REPORT, THE GOVERNMENT ACTUALLY BEGAN
TO TAKE SUCH ACTION BEFORE THE INCIDENT BECAME PUBLIC KNOWLEDGE.

(2) WITH REGARD TO THE MARTIAL LAW EMERGENCY MEASURES REFERRED
TO UNDER ARTICLE 9 IN THE REPORT, PERSONS CAN BE DETAINED UNDER
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THESE MEASURES ONLY IF THE ACTS ARE COMMITTED WITH THE INTENT
TO DESTROY THE ORGANIZATION OF THE STATE, CHANGE THE CONSTITU-
TION BY ILLEGAL MEANS, OR OVERTHROW THE GOVERNMENT.

IV. OTHER HUMAN RIGHTS REPORTING

(1) THE ANNUAL REPORT OF THE AMNESTY INTERNATIONAL IS MAINLY
BASED ON INFORMATION FROM POLITICALLY-BIASED SOURCES. THE
FIGURES CONTAINED THEREIN ARE UNTRUE.

END TEXT.

2. DETAILED EMBASSY COMMENTS AND SUGGESTIONS FOR SOME MINOR
REVISION OF REPORT WILL FOLLOW.
UNGER

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